

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

The State of Texas, et al.,

Plaintiffs,

v.

Google LLC,

Defendants.

Case No. 4:20-cv-00957-SDJ

Hon. Sean D. Jordan

Special Master: David T. Moran

**JOINT ADVISORY REGARDING TIMING OF SUMMARY JUDGMENT MOTION
AND MOTION TO STRIKE JURY DEMAND**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

The parties write jointly following the November 6, 2024 Status Conference. At the Conference, the Court directed the parties to meet and confer and submit a Joint Advisory regarding Google's proposal to defer the date on which Google's motion for summary judgment on Plaintiffs' federal and state antitrust claims is due. The parties have met and conferred and continue to disagree regarding Google's proposal. The parties' respective positions are set forth below regarding (A) summary judgment briefing, and (B) briefing on motion to strike jury demand.

A. Summary Judgment Briefing

(1) Google's position

As stated at the November 6, 2024 Status Conference, Google proposes that the Court defer the date on which Google's motion for summary judgment on Plaintiffs' federal and state antitrust claims is due. Judge Brinkema advised the parties to the U.S. Department of Judgment's ad tech antitrust case pending in the Eastern District of Virginia (*United States, et al., v. Google*

LLC, C.A. No. 1:23-cv-108) that she hopes to issue her ruling before the end of December. This decision will be informative in this Court's consideration of Plaintiffs' substantially similar antitrust claims in this case. Both Plaintiffs and Google recognize that additional briefing is certain to be warranted after Judge Brinkema rules, so Google believes case efficiency and judicial economy considerations weigh in favor of a single set of summary judgment briefs, rather than an initial set of briefs now and then a second set of supplemental briefs once Judge Brinkema issues her ruling. This will streamline briefing on the antitrust claims, allowing the Court and the parties—in the interim—to focus on the significant issues presented by Google's forthcoming motion for summary judgment on the Plaintiffs' state law DTPA claims.

Google therefore proposes that the Court order an amended briefing schedule on antitrust summary judgment motions as follows:

- If Judge Brinkema rules before January 1, 2025, summary judgment motions related to antitrust claims shall be filed within thirty (30) days of the Court's ruling.
- If Judge Brinkema does not rule before January 1, 2025, summary judgment motions related to antitrust claims shall be filed on January 3, 2025.
- In either event, the remaining time periods applicable to responses and replies shall apply, such that Opposition Briefs shall be due 21 days from the date of the filing of the motion and Replies shall be due 14 days from the filing of the opposition.

(2) Plaintiffs' position

As indicated at the status conference, the States believe the Court's current schedule should remain unchanged. Modifying this Court's schedule by trying to predict the ultimate

timing and persuasive value of a bench trial ruling from the Eastern District of Virginia does not increase efficiency in this case. Fact discovery ended in this case on May 24, 2024, and motions for summary judgement are due November 18, 2024. Google will have had almost six months to prepare its motions for summary judgement.

This briefing date was previously rescheduled to accommodate Google's EDVA trial (which concluded on September 27, 2024), allowing Google's experts to sit for deposition as late as November 1, 2024. The current briefing schedule allows for briefing to be complete by December 23, 2024. Further modification is not warranted nor in the interest of judicial economy.

Furthermore, after agreeing to push the briefing schedule to November 18, 2024, with the States responses due December 9, 2024, counsel for the States have planned staffing, case management, and vacations, to respond to the 270 pages of anticipated Google motions (120 for summary judgment and 150 for Daubert) during this three-week period.

To the extent either party believes Judge Brinkema's ruling and written Order should be considered in any way by this Court, the parties should file a brief supplement to Your Honor within 14 days of a written Order by Judge Brinkema.

The States therefore propose that the Court permit the parties to file a supplement or advisory to the Court as follows:

- Any supplement is due within 14 days of a written Order by Judge Brinkema and limited to 15 pages.
- Any, and all, replies are due 7 days later and are limited to 7 pages.

B. Briefing on Motion to Strike Jury Demand

The parties have conferred and have agreed to the following proposed schedule related to Google's Motion to Strike the Jury. Google will file its motion by December 1, 2024. Plaintiffs' opposition brief will be due by December 23, 2024 (14 days after its responses are due to any summary judgment motions and Daubert motions). Google's reply, if any, will be due January 10, 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on November 12, 2024, this document was filed electronically in compliance with Local Rule CV-5(a) and served on all counsel who have consented to electronic service, per Local Rule CV-5(a)(3)(A).¹

/s/ Robert J. McCallum

¹ The Court directed the parties to file the Joint Advisory by November 8, 2024. On November 8, counsel for Google filed the Joint Advisory with the Court via email. As explained in that email, the ECF system was closed for maintenance at that time.